

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	4:06CR3125
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
TROY J. LINK,)	
)	
Defendant.)	

To clarify the status of this case after entry of Chief Judge Bataillon's reassignment order (filing 16), I explain my understanding of that reassignment order. I understand that the reassignment of this case to me was for the purposes of appeal of the sentence imposed by Magistrate Judge Piester on September 26, 2006 and modified October 6, 2006 (filings 8 & 13). See 18 U.S.C. §§ 3402 (appeal of conviction in a misdemeanor case decided by a magistrate judge is to be taken to district judge), 3742(h) (appeal of a sentence in a misdemeanor case decided by a magistrate judge is to be taken to district judge). I do not understand the reassignment order to remove Judge Piester as the assigned judge in this case. The Clerk of the United States District Court for the District of Nebraska shall cause the court's computer-assisted record-keeping system to reflect that this case is assigned to Judge Piester for disposition and referred to me for appeal.¹

¹In the future, I suggest that the Clerk simply randomly draw an Article III judge to handle appeals under 18 U.S.C. §§ 3402 & 3742(h). Thus, for example, if a Lincoln magistrate judge had a misdemeanor criminal case, no Article III judge had been assigned, and an appeal was later taken from the magistrate judge's sentence, the Clerk's office would randomly draw an Article III judge from the Lincoln wheel for purposes of the appeal. The same procedure would be followed for Omaha. If the Clerk's office instead obtains an order from the Chief Judge directly assigning a case in circumstances like this, the order should make clear that the Magistrate Judge is not divested of jurisdiction and the Article III judge is assigned pursuant to 18 U.S.C. §§ 3402 & 3742(h) for purposes of appeal.

IT IS SO ORDERED.

October 25, 2006

BY THE COURT:

s/Richard G. Kopf
United States District Judge